



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB0160

Introduced 1/18/2011, by Rep. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

725 ILCS 120/6

from Ch. 38, par. 1406

Amends the Rights of Crime Victims and Witnesses Act. Provides that in any case where a defendant has been convicted of a violent crime or a juvenile has been adjudicated a delinquent for a violent crime, the victim or his or her representative and immediate family or household member upon their request shall (rather than may) be permitted by the court to orally address (rather than address) the court regarding the impact of the defendant's criminal conduct or juvenile delinquent conduct has upon them. Deletes provision that the court has discretion to determine the number of oral presentations of victim impact statements.

LRB097 05589 RLC 45651 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Rights of Crime Victims and Witnesses Act is  
5 amended by changing Section 6 as follows:

6 (725 ILCS 120/6) (from Ch. 38, par. 1406)

7 Sec. 6. Rights to present victim impact statement.

8 (a) In any case where a defendant has been convicted of a  
9 violent crime or a juvenile has been adjudicated a delinquent  
10 for a violent crime and a victim of the violent crime or the  
11 victim's spouse, guardian, parent, grandparent, or other  
12 immediate family or household member is present in the  
13 courtroom at the time of the sentencing or the disposition  
14 hearing, the victim or his or her representative shall have the  
15 right and the victim's spouse, guardian, parent, grandparent,  
16 and other immediate family or household member upon his, her,  
17 or their request shall ~~may~~ be permitted by the court to orally  
18 address the court regarding the impact that the defendant's  
19 criminal conduct or the juvenile's delinquent conduct has had  
20 upon them and the victim. ~~The court has discretion to determine~~  
21 ~~the number of oral presentations of victim impact statements.~~  
22 Any impact statement must have been prepared in writing in  
23 conjunction with the Office of the State's Attorney prior to

1 the initial hearing or sentencing, before it can be presented  
2 orally or in writing at the sentencing hearing. In conjunction  
3 with the Office of the State's Attorney, a victim impact  
4 statement that is presented orally may be done so by the victim  
5 or the victim's spouse, guardian, parent, grandparent, or other  
6 immediate family or household member or his, her, or their  
7 representative. At the sentencing hearing, the prosecution may  
8 introduce that evidence either in its case in chief or in  
9 rebuttal. The court shall consider any impact statement  
10 admitted along with all other appropriate factors in  
11 determining the sentence of the defendant or disposition of  
12 such juvenile.

13 (a-5) In any case where a defendant has been found not  
14 guilty by reason of insanity of a violent crime and a hearing  
15 has been ordered by the court under the Mental Health and  
16 Developmental Disabilities Code to determine if the defendant  
17 is: (1) in need of mental health services on an inpatient  
18 basis; (2) in need of mental health services on an outpatient  
19 basis; or (3) not in need of mental health services and a  
20 victim of the violent crime or the victim's spouse, guardian,  
21 parent, grandparent, or other immediate family or household  
22 member is present in the courtroom at the time of the initial  
23 commitment hearing, the victim or his or her representative  
24 shall have the right and the victim's spouse, guardian, parent,  
25 grandparent, and other immediate family or household members  
26 upon their request may be permitted by the court to address the

1 court regarding the impact that the defendant's criminal  
2 conduct has had upon them and the victim. The court has  
3 discretion to determine the number of oral presentations of  
4 victim impact statements. Any impact statement must have been  
5 prepared in writing in conjunction with the Office of the  
6 State's Attorney prior to the initial commitment hearing,  
7 before it may be presented orally or in writing at the  
8 commitment hearing. In conjunction with the Office of the  
9 State's Attorney, a victim impact statement that is presented  
10 orally may be presented so by the victim or the victim's  
11 spouse, guardian, parent, grandparent, or other immediate  
12 family or household member or his or her representative. At the  
13 initial commitment hearing, the State's Attorney may introduce  
14 the statement either in its case in chief or in rebuttal. The  
15 court may only consider the impact statement along with all  
16 other appropriate factors in determining the: (1) threat of  
17 serious physical harm poised by the respondent to himself or  
18 herself, or to another person; (2) location of inpatient or  
19 outpatient mental health services ordered by the court, but  
20 only after complying with all other applicable administrative,  
21 rule, and statutory requirements; (3) maximum period of  
22 commitment for inpatient mental health services; and (4)  
23 conditions of release for outpatient mental health services  
24 ordered by the court.

25 (b) The crime victim has the right to prepare a victim  
26 impact statement and present it to the Office of the State's

1 Attorney at any time during the proceedings. Any written victim  
2 impact statement submitted to the Office of the State's  
3 Attorney shall be considered by the court during its  
4 consideration of aggravation and mitigation in plea  
5 proceedings under Supreme Court Rule 402.

6 (c) This Section shall apply to any victims of a violent  
7 crime during any dispositional hearing under Section 5-705 of  
8 the Juvenile Court Act of 1987 which takes place pursuant to an  
9 adjudication or trial or plea of delinquency for any such  
10 offense.

11 (Source: P.A. 95-591, eff. 6-1-08; 96-117, eff. 1-1-10.)